



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

GERALD C. MANN

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ATTORNEY GENERAL

Honorable W. Lee O'Daniel
Governor of Texas
Austin, Texas

Dear Sir:

Opinion No. 0-2662-A

Re: Authority of Governor to "cause
the laws to be faithfully exe-
cuted"

With further reference to our opinion No. 0-2662, recently addressed to you, it has come to our attention that in discussing the questions therein submitted by you we overlooked Section 24, Acts 1935, 44th Legislature, p. 444, ch. 181. As a result of this omission, that opinion is incorrect, in that it fails to call to your attention the powers vested in you by Section 24 of the Act referred to, whereby you may "cause the laws to be faithfully executed." We sincerely regret that this error occurred, and hasten to modify 0-2662 to the end that it may be corrected.

Section 24 of Acts 1935, 44th Legislature, p. 444, ch. 181, reads as follows:

"Upon the occurrence of a public disaster, riot, or insurrection, or the formation of a dangerous resistance to the enforcement of the law, or for the purpose of performing his constitutional duty to cause the laws to be enforced, the Governor of this State shall have the authority to assume the command of and direct the activities and functions of the commission and of the department during the existence of such an emergency or necessity. In the event that the Governor of this State shall take such action, he shall first use the officers and personnel of the department other than the Texas Highway Patrol and the said Patrol shall be so called upon or diverted from its regular duties only in the event that the department is otherwise unable to cope with the emergency."

In the original opinion, it was pointed out that until the legislative branch of the State government should provide means by which the Governor might effectively "cause

the laws to be faithfully executed", there was little that the executive is able to do in order effectively to compel the faithful execution of the laws of the State of Texas. Section 24 of the act above referred to expressly authorizes the Governor to assume the command of and direct the activities and functions of the Public Safety Commission and of the Department of Public Safety when necessary for the purpose of performing his constitutional duty to cause the laws of the State to be enforced, during the existence of such necessity.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By s/ R. W. Fairchild
R. W. Fairchild
Assistant

RWF:GO:wc

APPROVED SEP 16, 1940
s/Gerald C. Mann
ATTORNEY GENERAL OF TEXAS

Approved Opinion Committee By s/BWB Chairman